

problem is simply this, during the course of many condemnations proceedings, the condemnee will be left in possession of the property and will be given use of the property until the proceeding is complete. This is true for several reasons, many times it will be in the interest of the condemnor and the condemnee to have someone in actual possession of the property while the proceedings are taking place. If the property taken is part of a large project involving several different owners, the proceedings involving the different interests may progress on different time tables. So it just makes good sense to leave certain owners in possession until the entire project is ready to begin. And, most importantly, we have a statute, Nebraska Revised Statute 76-714, which precludes a condemnor from dispossessing the condemnee "until the condemnor is ready to devote the property to a public use". The same statute also provides that the condemnor's title, or interest in the property is not perfected until the property is put to the use for which it is taken. This has been the law in Nebraska for 40 years, and there is no argument with that. It probably served to prevent a lot of abuse in condemnation proceedings, but abuse is a two-way street. And let me tell you how that statute can work to the detriment of the taxpayer. During the condemnation proceedings for Lincoln's new landfill, after the condemnation awards had been made, but before the proceedings were complete, the city left several of the previous owners in use and possession prior to putting the land to public use. Apparently use and possession wasn't enough for one condemnee, he decided to take his land with him. In fact, he took over 200 dump truck loads of dirt with him. When the city applied for a restraining order, they were informed that they better settle, because their title wasn't complete until they were ready to put the land to a public use. The result was that when the city was ready to take possession, there were 20,000 cubic yards of dirt removed. (Laugh.) Creative, okay. As I said before, this loop hole was discovered and exploited here in Lancaster County, but its implications are truly statewide. The solution which was arrived at with the help of the Judiciary Committee is this amendment. What this amendment says is that we leave the present statutes alone that allow a condemnee to remain in possession, but we make him liable for diminution in value caused by the...purposeful removal of real or personal property for the condemned property, unless previously agreed to in writing by the condemnee and the condemnor. Also, bear in mind that at this stage the condemnation award has already been paid into the court. This amendment is important. It's statewide in